**Accommodating Temporary Workers Under the ADA**

Many organizations rely on staffing agencies to supplement staff seasonally, to replace staff who are out on leave or to work on short term projects. Staffing agencies can ease many of the usual employer headaches related to hiring, formal discipline, etc. However, temporary staff are not entirely the responsibility of the staffing agency. The client employer (you) has responsibilities as well. Just a few examples: any person who gets injured when working at your site should be indicated on your OSHA log, any new staff member with past staffing agency service should have that service counted towards service requirements for FMLA, and there are ADA responsibilities as well, which we will address in this article.

In typical temporary arrangements, staffing agencies hire workers, pay their wages, and maintain relevant insurance coverage. However, the bulk of day-to-day direction and supervision is provided by a client employer. In these situations (broadly speaking), both the staffing agency and the work site employer are considered joint employers under the ADA.

Here is an example of how this can impact you (the client employer):

Arnold, who is deaf, is an employee of Jobs4You, a temporary staffing agency. He is placed with your company, WeWork Corporation to perform maintenance work. WeWork requires all workers, including temporary staff, to attend a one-hour safety orientation program. So, Arnold asks Jobs4You for a sign language interpreter for this meeting. Jobs4You lets WeWork know about the need for an interpreter. The placement contract between Jobs4You and WeWork is silent on this topic.

Here, both Jobs4You and WeWork now qualify as Arnold’s employer because Jobs4You hired Arnold, pays his wages, and places him at various projects, while WeWork will supervise and direct his daily work. As such, both Jobs4You and WeWork are independently obligated to provide Arnold this reasonable accommodation. However, it is best for both employers to collaborate to meet their ADA obligations, including co-utilizing the ADA's interactive process with Arnold should questions or issues arise.

To be proactive in addressing this aspect of ADA compliance, placement contracts can be written to specify which entity will provide reasonable accommodations that will be required on the job or how these costs may be allocated. This will aid in eliminating confusion should an accommodation request arise, as well as eliminate unnecessary delay. It is important to note that, although staffing firms and their clients may allocate these responsibilities in any agreed-upon way, the existence of a contract does not alter any obligations under the ADA to ensure that a temporary worker is accommodated.

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Reviewed for NC law only.